



**FINAL ADMINISTRATIVE DECISION
ILLINOIS PROPERTY TAX APPEAL BOARD**

APPELLANT: George Edward Beck
DOCKET NO.: 13-04496.001-C-1
PARCEL NO.: 07-29-362-008

The parties of record before the Property Tax Appeal Board are George Edward Beck, the appellant, by attorney Henry P. Villani of Villani Johnson Law Group, LLC in Mount Vernon; and the Jefferson County Board of Review by Douglas R. Hoffmann, Jefferson County State's Attorney.¹

Based on the facts and exhibits presented, the Property Tax Appeal Board hereby finds a reduction in the assessment of the property as established by the **Jefferson** County Board of Review is warranted. The correct assessed valuation of the property is:

LAND: \$5,491
IMPR: \$41,842
TOTAL: \$47,333

Subject only to the State multiplier as applicable.

Statement of Jurisdiction

The appellant timely filed the appeal from a decision of the Jefferson County Board of Review pursuant to section 16-160 of the Property Tax Code (35 ILCS 200/16-160) challenging the assessment for the 2013 tax year. The Property Tax Appeal Board finds that it has jurisdiction over the parties and the subject matter of the appeal.

Findings of Fact

The subject property is improved with a part two-story and a part one-story brick constructed office building with 3,311 square feet of ground floor area. The building was constructed in approximately 1900 and has a partial basement. The property is located at 232-236 South 9th St., Mt. Vernon, Mt. Vernon Township, Jefferson County.

¹ A consolidated hearing was held with Docket Nos. 13-04490.001 & .002-C-1, 13-04491.001 & .002-C-1, 13-04492.001-C-1, 13-04493.001-C-1, 13-04494.001-C-1; 12-04495.001-C-1 and 13-04496.001-C-1. Separate decisions will be issued for each appeal.

The appellant appeared before the Property Tax Appeal Board contending overvaluation as the basis of the appeal. In support of this argument the appellant submitted evidence disclosing the subject property as well as seven other properties located in Mt. Vernon were purchased as a group from Ten Oaks Properties, LLC on November 22, 2013 for a combined total purchase price of \$2,130,000. Of the total purchase price the parties had allocated a price of \$142,000 to the subject property. To document the transaction the appellant submitted a copy of the Agreement to Purchase of Real Estate dated October 25, 2013, a copy of a document titled "Allocation of Purchase of Real Estate" and a copy of the settlement statement associated with the transaction.

The first witness called on behalf of the appellant was Hal Burgan. Burgan testified he was a member of the entity that previously owned the property known as Ten Oaks Properties, LLC, that sold the subject property to Mr. Beck. He explained the LLC was composed of ten family members. The witness testified he was a member of the LLC for five years and the LLC owned the property for five years. The sole purpose of the LLC was to buy the various properties and to lease them. The witness testified these were all commercial properties.

The witness explained that Ten Oaks Properties, LLC decided to sell the properties because it was too much of a family business that they were not enjoying in that it took a lot of time, there were too many "chiefs" and it was taking away from their respective main business interests. Mr. Burgan testified that they had tenants during the time the LLC owned the property but some properties were vacant at the time of sale. The witness testified that the members of the LLC decided to sell the subject properties in March 2013. Their first step was to attempt to sell the property without a Realtor so that they would not incur the fees. The witness testified they talked to the tenants to determine if any would like to purchase the spot that they were leasing. They also talked to other individuals in Mt. Vernon that had other properties for lease and did this type of business. The witness also testified they talked to other business people in Mt. Vernon, including Bill Beck, the appellant's father. Mr. Burgan indicated that Bill Beck indicated that he and/or his son, Ed, might be interested in purchasing the properties and that is when they started talking directly with the appellant.² Some of the tenants had some initial interest but after a month or two the tenants indicated they were not interested in purchasing the property. The witness also testified that the properties were also offered to some of the members of the LLC, but none expressed interest.

Mr. Burgan indicated that they spoke with approximately five others in the community about purchasing the property but he could not recall their names. These were individuals in the commercial landlord business in Southern Illinois including Mt.

² Bill Beck is the father of the appellant, George Edward "Ed" Beck.

Vernon. According to Mr. Burgan two of these individuals looked at a couple of the properties but after a month or two decided not to purchase the properties.

The witness explained that they did not put ads in the newspapers or "for sale" signs in the windows except for one property because they did not want to worry the tenants. Burgan testified that there were no outside factors or financial troubles causing Ten Oaks Properties, LLC to sell the properties. He indicated there was no foreclosure pending or bankruptcy on the horizon.

When they decided to sell the properties they still had the listing sheets when listed with Cross Davidson, which was the Realtor that handled the properties when Ten Oaks Properties, LLC made its purchase, as the starting point to establish the price. They would start with those numbers and then negotiate down and the prospective purchaser would consider the price. Burgan testified they received no offers to purchase the subject property other than from Bill Beck and/or Ed Beck. The witness thought the offers occurred approximately four months after they began seeking buyers for the subject property.

The numbers that Ten Oaks Properties, LLC and the Becks agreed to for the purchase of the property were negotiated over a couple of months. Mr. Burgan testified that they had the number that they had purchased the subject for and they began with that. They had a couple months of "back and forth" taking big chunks off that price. The parties then "fine tuned" the price by having a couple of meetings sitting in a room across a table in which the price was reduced and telephone calls made. The witness indicated the negotiations took a couple of months. The witness identified Appellant's Exhibit H as the allocated prices for the properties purchased by the appellant. The witness explained that an accountant was used in assisting with allocating the purchase price among the properties. The witness acknowledged that the total price was \$2,130,000. Mr. Burgan testified that the members of the LLC were of the opinion the sales price was fair.

Under cross-examination Mr. Burgan testified that they initially marketed some of the properties individually to the tenants using the original listings sheets from the time when Ten Oaks Properties, LLC purchased the property as a starting point but could not recall the specific amounts. The witness also testified that no one in Ten Oaks Properties, LLC was related to the Becks and there had been no relationship with the Becks prior to the transaction. Mr. Burgan also testified that Ten Oaks Properties, LLC was under no duress or compulsion to sell the properties.

Mr. Burgan identified Appellant's Exhibit I as a letter he sent to the appellant regarding the transaction, which reiterated some of his testimony. He also indicated that while they owned the properties a new roof was put on the property located at 2929 Broadway; painting and new carpeting was installed when tenants

changed; and they converted the property located at 42nd Street from two units to one unit.

The appellant was called as the next witness. Mr. Beck testified that he is the sole member of 10Oaks Properties, LLC, which owns the subject property. Mr. Beck testified that at some point during 2013 members of Ten Oaks Properties, LLC, approached him and his father about purchasing the subject properties. The appellant testified that he spoke with Mr. Burgan in February or March 2013 about purchasing the subject properties and the asking price was approximately \$2.4 million. The witness testified they talked on and off for three to four months and then they got down to the "nitty gritty" the last two of months before completing the deal. He was of the opinion that the final price that was negotiated was the fair market value of the properties.

The appellant explained that he had an accountant assist him in the purchasing of the properties. The witness indicated he had the accountant review the income as well as the purchase price of the properties and the accountant was of the opinion the purchase price was reasonable. The appellant further testified that he worked with counsel and a couple of bank presidents in Mt. Vernon that were interested in working with him that ran numbers as well. The appellant indicated that these factors played a part in arriving at the total purchase price of \$2.13 million.

The appellant testified that approximately five or six of the properties did not have tenants at the time of purchase. The appellant testified that one of the properties purchased was a parking lot that was being leased to 9th Street Grill, but it went out of business in January 2014. Other than the parking lot he currently has six vacant properties. The appellant testified that five properties have remained vacant from the time of purchase. He has continuously advertised these properties for lease since purchase. The appellant believes a couple of the properties remain vacant due to their large size. The witness was satisfied with the showings of these properties and testified that prospective tenants indicated they did not lease the buildings due to cost.

The appellant testified the allocation of the price was made through negotiations. He also testified that some improvements have been made to the properties since the purchase such as build-outs to make some of the properties more modernized.

The appellant testified that he is requesting the market value of the various properties to be reduced to reflect the negotiated purchase price of \$2.13 million as allocated on Appellant's Exhibit H. The appellant indicated that he borrowed the money to complete the transaction with one loan from a bank and an additional loan from his father, who helped with the down payment.

Under cross-examination the appellant testified that there was a complete build-out of the property located at 42nd Street and a

build-out of the office space at the property located at 2929 Broadway in 2014. He also agreed that 6 to 8 months transpired from the time he learned the properties were for sale in March 2013 until the completion of the transaction in November 2013.

The appellant testified that the accountant he consulted was Brent Palmer of Krehbiel and Associates; counsel that assisted the appellant was Henry P. Villani; and the bank presidents were identified as Jo David Cummins of Community First Bank and Randy Forby of MidCountry Bank. The bankers assisted the appellant in running the numbers to make sure the cash flow would support the note. The appellant also indicated these individuals gave suggestions on things he could ask for and/or do to negotiate the best possible price. The appellant testified that Mr. Palmer also ran the numbers in a similar manner as the individuals at the banks.

The appellant indicated that the negotiations were on a total package basis, not for the individual properties. The appellant testified that the allocated price for the various properties began with the total purchase price of \$2,130,000 and then was based on numbers from the accountant.

The appellant also acknowledged on the closing statement that there was an appraisal fee in the amount of \$4,000 to Crain Appraisal Service for appraisal prepared in connection with the transaction. The appellant thought the appraised value was a little over \$3,000,000. The witness indicated the appraisal was prepared as a requirement of the loan. The appellant was of the opinion the appraised value was too high and that if he tried to sell the properties he could not come anywhere near the appraised value.

The appellant testified that he had no relationship to the sellers prior to the transaction. He also testified he was under no compulsion or duress to purchase the properties.

Based on this evidence the appellant requested the assessment on this property be reduced to reflect a market value of \$142,000 based on the allocation of the \$2,130,000 purchase price.

The board of review submitted its "Board of Review Notes on Appeal" disclosing the total combined assessment for the subject of \$60,480. The subject's assessment reflects a market value of \$186,667 when using the 2013 three year average median level of assessment for Jefferson County of 32.40% as determined by the Illinois Department of Revenue.

The board of review submitted a copy of the property record card for the subject property as well as an aerial photograph depicting the subject property. In its written submission the board of review argued the sale did not meet the criteria of the market value definition because the property was not exposed in the open market. In support of this assertion the board of review submitted a copy of the PTAX-203 Illinois Real Estate

Transfer Declaration associated with the sale disclosing the purchase price of \$2,130,000 but also indicating the property was not advertised for sale.

Lee Ann Crunk, Jefferson County Supervisor of Assessments, was called as a witness on behalf of the board of review. The witness identified Review Board Ex. #1 as screen prints from their property tax system showing the assessments on the various properties purchased by the appellant in response to Mr. Beck's rebuttal evidence. Review Board Ex. #1 showed a total fair cash value of the properties of \$2,494,659 and not \$2,729,940 as referenced by the appellant in his rebuttal letter.

Based on this evidence, the board of review requested confirmation of the assessment.

Conclusion of Law

The appellant contends the market value of the subject property is not accurately reflected in its assessed valuation. Except in counties with more than 200,000 inhabitants that classify property, property is to be valued at 33 1/3% of fair cash value. (35 ILCS 200/9-145(a)). Fair cash value is defined in the Property Tax Code as "[t]he amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller." (35 ILCS 200/1-50). The Supreme Court of Illinois has construed "fair cash value" to mean what the property would bring at a voluntary sale where the owner is ready, willing, and able to sell but not compelled to do so, and the buyer is ready, willing, and able to buy but not forced to do so. Springfield Marine Bank v. Property Tax Appeal Board, 44 Ill.2d 428 (1970). A contemporaneous sale between two parties dealing at arm's length is not only relevant to the question of fair cash value but practically conclusive on the issue on whether the assessment is reflective of market value. Korzen v. Belt Railway Co. of Chicago, 37 Ill.2d 158 (1967). Furthermore, the sale of a property during the tax year in question is a relevant factor in considering the validity of the assessment. Rosewell v. 2626 Lakeview Limited Partnership, 120 Ill.App.3d 369, 375 (1st Dist. 1983).

When market value is the basis of the appeal the value of the property must be proved by a preponderance of the evidence. National City Bank of Michigan/Illinois v. Illinois Property Tax Appeal Board, 331 Ill.App.3d 1038 (3rd Dist. 2002). Proof of market value may consist of an appraisal of the subject property, a recent sale, comparable sales or construction costs. (86 Ill.Admin.Code §1910.65(c)). The Board finds the appellant met this burden of proof and a reduction in the subject's assessment is warranted.

The Board finds the best evidence of market value to be the combined purchase price of the subject properties for \$2,130,000 in November 2013. The record contains testimony from both the seller and the appellant/purchaser concerning the circumstances

surrounding the transaction involving the subject property and seven other properties. The testimony disclosed the sellers actively marketed the properties by contacting tenants, other commercial landlords in Mt. Vernon and other business people in Mt. Vernon in an attempt to sell the subject properties. The appellant also testified that he was made aware that the property was being marketed in February or March 2013 and negotiations took place over a six month period culminating in the sale and closing in November 2013 for a price of \$2,130,000. The appellant further testified he consulted an accountant and bankers during the negotiations to insure the cash flow would support the loan. The Board finds this testimony establishes that the purchase price of the subject properties is indicative of fair cash value for assessment purposes. The Board finds the board of review did not present any evidence that challenged the arm's length nature of the transaction. Furthermore, the board of review did not provide any market data, such as comparable sales, to demonstrate the purchase price was not indicative of the fair cash value. Finally, the board of review submitted no market data evidence to challenge the allocated purchases prices developed for each of the properties under appeal. The Property Tax Appeal Board finds the subject's property record card containing the cost approach to value submitted by the board of review does not refute the fact the subject property was sold after being actively marketed by the seller in a transaction involving unrelated parties, neither of which was under any compulsion or duress to buy or sell. Based on this record the Property Tax Appeal Board finds a reduction in the assessment of the subject property is justified based on the November 2013 purchase price.

This is a final administrative decision of the Property Tax Appeal Board which is subject to review in the Circuit Court or Appellate Court under the provisions of the Administrative Review Law (735 ILCS 5/3-101 et seq.) and section 16-195 of the Property Tax Code.

Chairman



Member

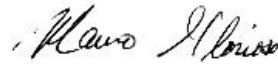


Member



Member

Member





Acting Member

DISSENTING: _____

C E R T I F I C A T I O N

As Clerk of the Illinois Property Tax Appeal Board and the keeper of the Records thereof, I do hereby certify that the foregoing is a true, full and complete Final Administrative Decision of the Illinois Property Tax Appeal Board issued this date in the above entitled appeal, now of record in this said office.

Date: March 18, 2016



Clerk of the Property Tax Appeal Board

IMPORTANT NOTICE

Section 16-185 of the Property Tax Code provides in part:

"If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the Board of Review or after adjournment of the session of the Board of Review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of written notice of the Property Tax Appeal Board's decision, appeal the assessment for the subsequent year directly to the Property Tax Appeal Board."

In order to comply with the above provision, YOU MUST FILE A PETITION AND EVIDENCE WITH THE PROPERTY TAX APPEAL BOARD WITHIN 30 DAYS OF THE DATE OF THE ENCLOSED DECISION IN ORDER TO APPEAL THE ASSESSMENT OF THE PROPERTY FOR THE SUBSEQUENT YEAR.

Based upon the issuance of a lowered assessment by the Property Tax Appeal Board, the refund of paid property taxes is the responsibility of your County Treasurer. Please contact that office with any questions you may have regarding the refund of paid property taxes.